



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,970	09/09/2003	Gary Gene Dehart	19839.133	4142

21878 7590 09/06/2005

KENNEDY COVINGTON LOBDELL & HICKMAN, LLP
214 N. TRYON STREET
HEARST TOWER, 47TH FLOOR
CHARLOTTE, NC 28202

EXAMINER

PEDDER, DENNIS H

ART UNIT PAPER NUMBER

3612

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,970

Applicant(s)

DEHART, GARY GENE

Examiner

Dennis H. Pedder

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,6,8-10,14-34,36,40-47 and 88-104 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 88-92 and 99-101 is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,8,10,14-22,28-34,93-98 and 102-104 is/are rejected.
- 7) ☒ Claim(s) 9,23-27,36 and 40-47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. No claims are currently withdrawn in view of the election of 3/15/2005.

Claim Objections

2. Claims 20, 42 are objected to because of the following informalities: The use of a Trademark in the claims is indefinite as the structure of same could change over the life of the patent. Appropriate correction substituting generic terminology is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 28-34, 36, 93-98, 102-104 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The listing of multiple structures in claims 28, 98 is directly contrary to the above statute which requires a particularly pointing out and distinctly claiming. The frames of these three vehicles are distinctly different in nature.

Claims 93 and 102 lack antecedent for the inner and outer layers.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim Rejections - 35 USC § 103

6. Claims 1-2, 5-6, 8, 10, 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson et al. in view of Triarsi et al. and Lohr et al.

Simpson et al. shows the unitary shell with conventional bottom and back, molding being a process not given patentable weight in a product claim (MPEP 2113), and having a safety restraint system integral ("made up of parts that together constitute a whole", Random House College Dictionary, 1980). Simpson et al. has resilient padding 71,72 on both back and bottom. Simpson et al. shows a roll bar immediately rearward of the seat in figure 1, but omits details thereof.

Triarsi et al. teach specifically that a seat back may be attached to a roll bar or structural member of the vehicle by brackets 326o.

Lohr et al. teach that such a bucket type seat may have attachment plates 46, 74, 52 and 78 integral to the bottom and back of the seat as well as restraint strap 76 with a first end attached to plate 74 and strap 30 with a first end attached to plate 46 and with second ends of the straps connected by device 84,82.

Art Unit: 3612

It would have been obvious to one of ordinary skill to provide in Simpson et al. a roll bar attachment as taught by Triarsi et al. in order to secure the seat firmly and strap/plate mounting as taught by Lohr et al. in order to ensure strap retention upon crash.

Applicant's arguments regarding "integral" and bracket 46 are rebutted by the dictionary definition above.

As to claims 5-6, applicant admits this as prior art.

As to claim 2, see headrest 20 in Lohr et al. Adjustable headrests are common knowledge in the art.

As to claim 8, resin padding is common knowledge in the art as is contoured or sculpted foam, claim 10.

7. Claims 14-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson et al. in view of Triarsi et al. and Lohr et al. as applied to claim 1 above, and further in view of Doehrer.

As to claim 14, see wings 23 at top of Doehrer.

As to claim 16, see connecting members below 23 in Doehrer.

As to claims 17-22, see col. 5, line 35 of Doehrer. The construction of claims 18, 19 and the material of claim 20 are of common knowledge in the automotive field and obvious to use for their known advantages. Claim 22 is an obvious known expedient.

Applicant may seasonally challenge, for the official record in this application, this and any other statement of judicial notice in timely manner in response to this office action. Please specify the exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

8. Claims 28-30, 98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson et al. in view of Triarsi et al.

See paragraph 5 above. It would have been obvious to one of ordinary skill to provide in Simpson et al. attachment to a roll bar as taught by Triarsi et al. in order to secure the seat under all conditions.

Allowable Subject Matter

9. Claims 88-92, 99-101 are allowed.

10. Claims 9, 23-27, 36, 40-47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 93-97, 102-104 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

12. Applicant is cautioned to maintain a clear line of distinction between claimed subject matter.

Response to Arguments

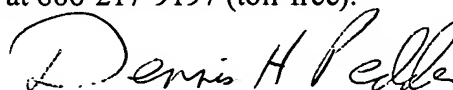
13. Applicant's arguments filed 8/02/2005 have been fully considered but they are not persuasive. Please see the detailed action above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667. The examiner can normally be reached on 5:30-2:00.

Art Unit: 3612

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dennis H. Pedder
Primary Examiner
Art Unit 3612

8/31/05

DHP
8/31/2005

Replacement Sheet

6/6

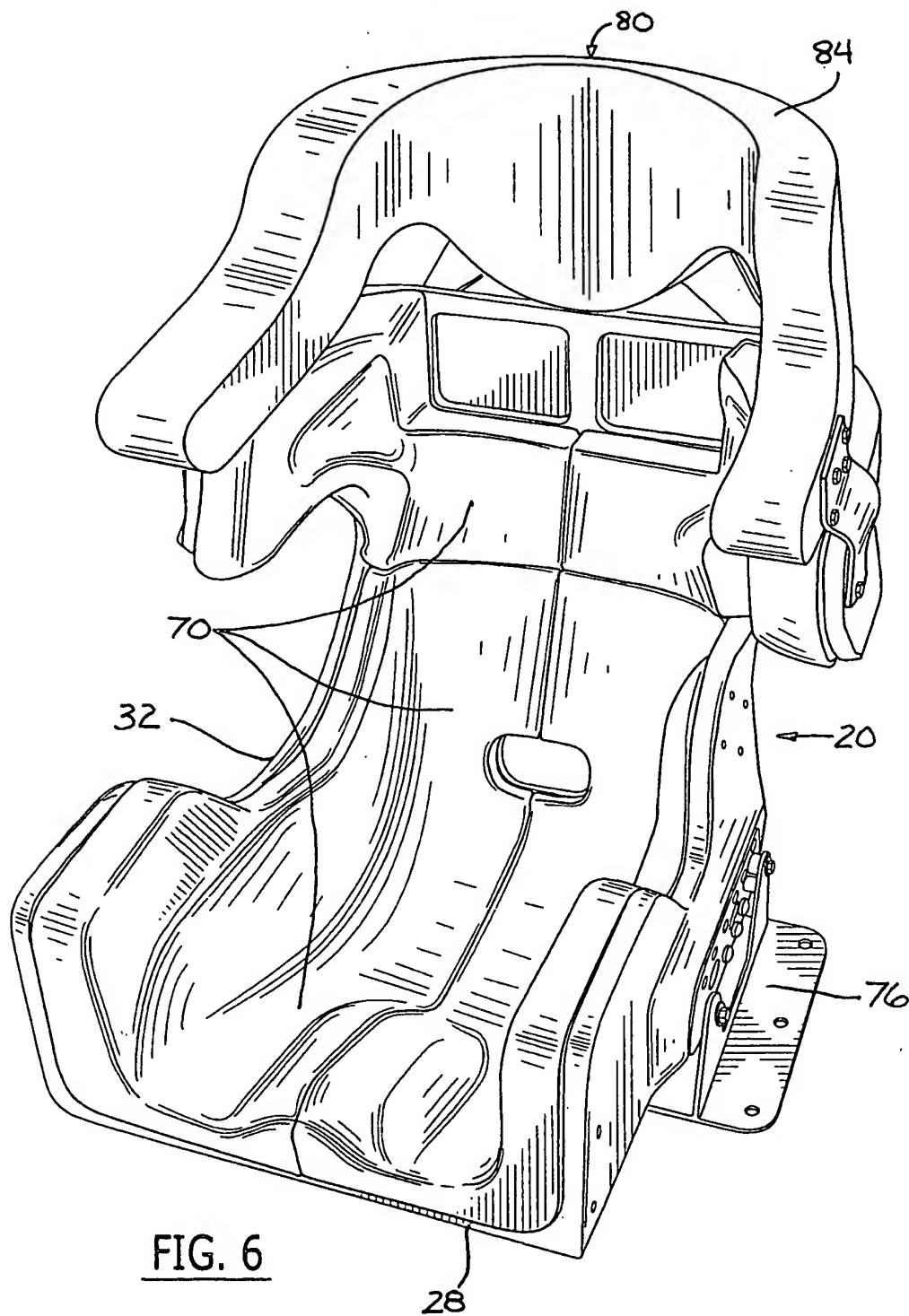


FIG. 6

D&P
Approved
8/31/05
FIGS 1-6